

Atty Docket : 38-21(15831)B

Remarks

Applicant traverses the outstanding rejection of Claim 21 under 35 U.S.C. 102(b) as being anticipated by the disclosure by Soberon-Chavez in U.S. Patent 5,443,980.

Xanthomonas campestris is useful industrially because of its ability to produce the polysaccharide xanthum gum. Xantham gum naturally contains other proteins that are co-produced by *X. campestris*, including the proteins listed in claim 21, viz. galactomannanase, amylase, cellulase, extracellular protease, intracellular protease and glucose dehydrogenase.

Soberon-Chavez disclose a transformed strain of *Xanthomonas campestris* which can produce extracellular proteins, e.g. lipase, which are stabilized due to the natural presence of xantham gum. Stated advantages of such production of lipase include simplicity in recovery of the lipase-xantham gum mixture, less restrictions in the possible application of the recombinant product in foods or pharmaceuticals and enhanced product stability because of the presence of xantham gum.

Applicants' invention is distinguished from the Soberon-Chavez disclosure in that applicants' invention is directed to improvement of xantham gum, *per se*, by reducing co-produced proteins which can have a diminishing effect on desired properties of xantham gum. Not only does Soberon-Chavez not disclose reducing co-produced proteins, but Soberon-Chavez actually teaches away from applicants' invention by teaching only the production of proteins in xantham gum.

Reconsideration and withdrawal of this Section 102(b) rejection of claim 21 is respectfully requested.

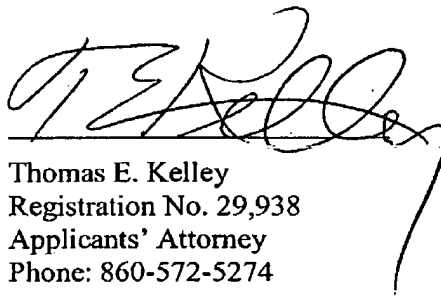
Restriction requirement

Applicants traverse the PTO's treatment of applicants' response to the restriction requirement as being an election without traverse. It appears that the PTO has instituted a new standard for adequacy of traverse to preserve the right to petition that may be impossible to achieve, i.e. to distinctly and specifically point out the supposed errors in the restriction requirement. Applicants submit that there may not have been no errors in the restriction requirement, i.e. it may have been factually correct in its application of PTO policy. Reference to the election and response to the restriction requirement will show that applicant did, in fact, traverse the requirement and distinctly and specifically

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aver that the policy behind such a restriction requirement is arbitrary and applied without regard to the true scope of the invention. Applicants respectfully request reconsideration and reversal of the holding that the election was made without traverse. Regardless, applicants reserves the right to petition the decision in the restriction requirement.

Respectfully submitted,



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